

ORIGINAL
PAUL REYNOLDS
CONSULTANT

November 14, 1993

415 North College Street
Greenville, AL 36037
(205) 382-8048 Fax 382-2940

Mr. William A. Caton, Secretary
FEDERAL COMMUNICATIONS COMMISSION
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

RE: Counterproposal MM Docket 93-245

Dear Mr. Caton:

Enclosed please find a Counterproposal that we would like to file for our client in the above captioned Docket. This counterproposal is being filed simultaneously with a request for a dismissal of the original Petition for Rule Making. However, the counterproposal request an allocation at the same community.

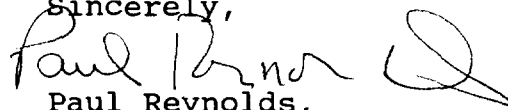
Please have someone in your office forward the counterproposal and the request for dismissal of the original petition to:

Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

Additionally, there is a copy of each document labeled "Receipt Stamp Copy." They are each attached to an addressed and stamped envelope. Please have someone stamp these and return them to the Petitioner for his records.

Thank you for your assistance in getting these documents filed.

Sincerely,


Paul Reynolds,
Consultant

Enclosure(s)

No. of Copies rec'd 054
List A B C D E

BROADCAST CONSULTING AND CONSTRUCTION

ORIGINAL

DOCKET FILE COPY ORIGINAL

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In The Matter of)
)
Amendment of Section 73.202(b),) MM Docket 93-245
Table of Allotments,)
FM Broadcast Stations) RM 8316
(Hayneville, Millbrook &)
Orrville, Alabama))

To:
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**COUNTERPROPOSAL, COMMENTS
AND REQUEST FOR ORDER TO SHOW CAUSE**

In the above captioned Docket, R. J. Miller ("Miller") has petitioned the Commission to allot channel 300A to Hayneville, Alabama, as that communities first local service. The Commission has issued a Notice of Proposed Rule Making (DA 93-1071) with the Comment Period ending November 15, 1993. Therefore this Counterproposal is timely filed.

Due to extreme FAA and EMI problems associated with the allotment of channel 300A at Hayneville, Miller, in a separate document simultaneously filed with this counterproposal, is requesting that his original petition be dismissed. FCC and FAA consultants have advised Miller that

even though the channel meets the Commission's allotment criteria, the proximity of the antenna to Danley Field could create problems that will require years to eliminate.

Therefore, Miller is offering this counterproposal as a method of providing a first local service to Hayneville while eliminating many potential aeronautical flight hindrances and EMI problems.

THE COUNTERPROPOSAL SUMMARIZED

<u>COMMUNITY</u>	<u>PRESENT</u>	<u>PROPOSED</u>	<u>COUNTERPROPOSAL</u>
Hayneville	----	300A	246A
Millbrook	246A	----	226A
Orrville	247A	----	300A

The Miller Counterproposal requires the substitution of channel 226A for channel 246A at the license site of WMCZ(FM) Millbrook, Alabama, and the substitution of channel 300A for channel 247A at Orrville, Alabama. The substitution at Millbrook can be made with no change in the license site of WMCZ, unless it is desired by the licensee. However, the substitution of channel 300A for channel 247A at Orrville requires a location different than the CP coordinates. Miller has obtained an agreement from the permittee of WJAM FM, Orrville, Alabama which provides the process for a new fully spaced tower site. A copy of that agreement is attached as Exhibit A.

ORDER TO SHOW CAUSE

Miller respectfully request that the Commission issue an Order to Show Cause to the licensee of WMCZ(FM), Millbrook, Alabama, as to why its license should not be modified to reflect operating on channel 226A in lieu of its present channel of 246A. Miller is aware of the Commission requirements concerning reimbursement of expenses to licensees for this type of Show Cause Order. This is discussed in more detail below.

There is no reason for the Commission to issue a Show Cause Order to the permittee of WJAM (FM) since a signed agreement from that permittee agreeing to a channel and tower site change is included as exhibit A.

ADVANTAGES OF THE MILLER COUNTERPROPOSAL

If the Commission adopts the Miller Counterproposal as submitted the advantages are as follows: 1) WMCZ will be permitted to operate at 6 KW in lieu of its present restricted power of 3 KW. 2) A larger location window in key market areas will be available for WMCZ if the licensee so desires. 3) Hayneville will be awarded an FM channel as a first local service that does not have inherent tower location and EMI problems. 4) Orrville will continue to have a class A allocation with a strong future possibility

of upgrading to a class C3 on channel 300.

REIMBURSEMENT OF EXPENSES

Miller is aware of Commission policy requiring petitioners and/or permittees to reimburse other licensees and permittees when they are required to change channels and/or tower sites in order to accommodate an upgrade or allocation. Miller states that he is agreeable to reimburse the licensee of WMCZ for all reasonable expenses related to a channel change. Furthermore, Miller has signed an agreement with the permittee of WJAM, Orrville that covers expenses for all related channel and site changes. These agreements are predicated on the fact that Miller is the successful applicant at Hayneville.

EXPRESSION OF INTEREST

Miller hereby certifies that he is interested in the allocation of channel 246A at Hayneville and if this channel is allocated he will timely file an application for a construction permit. Furthermore, if he is the successful applicant for channel 246A at Hayneville, he will promptly construct, own and daily operate this station as a first local service to Lowndes County Alabama.

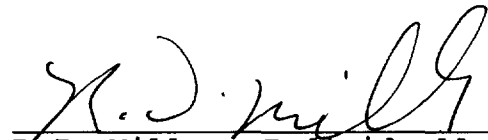
CONCLUSION

Initially Miller sought to provide a first local service to Hayneville, Alabama, by the allocation of channel 300A. However, the allocation window exists almost entirely in the area of the Montgomery Municipal Airport, Danley Field. A combination of FCC and FAA studies have determined that there are many inherent problems with channel 300A in the area south of Danley Field. Therefore, in a separate document Miller requests that the petition for Channel 300A be dismissed. However, in order to provide the first local service to Hayneville, Miller is offering a Counterproposal that meets the Commission's minimum distance separation requirements and eliminates a myriad of FAA problems at Hayneville. This Counterproposal, Comments and Requests for Order to Show Cause can be adopted according to the criteria of C.F.R. 47, Section 73(b) of the Communications Act of 1934. It is within the Commission's mandate of MAXIMUM UTILIZATION OF THE SPECTRUM.

CERTIFICATION

I, R. J. Miller, Petitioner for the allocation of a new FM broadcast service at Hayneville, AL do hereby verify that the statements contained in this Counterproposal (for MM Docket 93-245) are true and correct to the best of my knowledge and belief. I represent that this Counterposal is not filed for the purpose of impending, obstructing, or delaying determination on any other application or petition with which it may be in conflict.

Respectfully Submitted,


R.J. Miller, Individually

This 14TH Day of November, 1993

R. J. Miller, Individually
Route 1, Box 242
Letohatchee, AL 36047

CERTIFICATION OF WJAM(FM) ORRVILLE, ALABAMA

Marion Radio, Inc. (MRI) hereby certifies that it is the permittee of WJAM(FM) Orrville, Alabama, and it is agreeable to a relocation of its transmitter/antenna site, if fully reimbursed for all related expenses. MRI is authorized to construct a maximum class A on channel 247A at Orrville and is aware that R. J. Miller (Miller) has petitioned the Commission to allocate channel 300A to Hayneville, Alabama. Miller has encountered numerous EMI and FAA problems with the allocation of this channel to Hayneville.

Therefore, Miller has sought the cooperation of MRI in getting a channel allocated to Hayneville that clears these problems. At this point the only scenario that will create a new allocation at Hayneville is the allocation of channel 246A (97.1 Mhz). This allocation requires, among other substitutions, the deletion of the present WJAM channel of 247A and the substitution of channel 300A. However, the allocation of channel 300A for channel 247A at Orrville requires a change in the allocation coordinates from the present WJAM CP site.

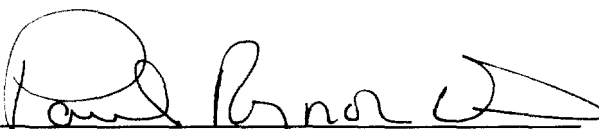
MRI is agreeable to this relocation, or conversion to a directional antenna in order for channel 300A to be substituted for channel 247A at Orrville. MRI has entered into an agreement with Miller for the reasonable

reimbursement of expenses related to a relocation of its antenna site. MRI is aware that Miller could possibly not be the successful applicant for a new FM channel at Hayneville. However, MRI is agreeable to this relocation of its antenna only if the successful applicant fully reimburses MRI for all related expenses.

A copy of the agreement between Miller and MRI can be made available if called for by the Commission.

Agreed to this 14TH Day of November, 1993

MARION RADIO, INC.

By: 
Paul H. Reynolds
Its President

ENGINEERING STATEMENT

In Support of a

COUNTERPROPOSAL MM DOCKET 93-245, RM-8316

R. J. MILLER, INDIVIDUALLY

HISTORY

The instant engineering statement is submitted in support of a counterproposal being filed by R. J. Miller (Miller) in the above captioned proceeding. Initially in this Docket Miller had petitioned the Commission to allocate channel 300A to Hayneville as that community, and Lowndes County's first aural service. However, after Miller contacted a consultant to assist him in this matter, it was discovered that the reference coordinates used for this proposed allocation was only 5 kilometers from the end of a main runway of Danley Field, the Montgomery Municipal Airport. When a tower site was chosen that gave the necessary minimum distance separation requirements, the area was too close to Danley Field, and when sites were chosen that gave clearance to Danley Field, it either created short spacing to other stations or was at site that did not provide the required city grade contour service (70 dBu) to Hayneville.

Also, since the channel 300A (107.9 Mhz) is adjacent to the aviation band, Miller had extensive electromagnetic interference (EMI) studies conducted. FAA consultant

John P. Allen determined that the numerous EMI problems gave little chance of the FAA giving a Determination of No Hazard to channel 300A anywhere in its location window. This is discussed in detail in another document being filed in MM Docket 93-245.

Miller determined that an alternative method must be used to provide a first service to Hayneville since a construction permit from the Commission would not be given for channel 300A without a Determination of No Hazard from the FAA. Therefore, in a separate document being filed simultaneously with this Counterproposal, Miller is withdrawing his request for channel 300A at Hayneville and requesting that the instant counterproposal be accepted instead.

NATURE OF THE COUNTERPROPOSAL

In the instant counterproposal, Miller is abandoning his effort for the allocation of channel 300A and instead is proposing the allocation of channel 246A. This allocation will require the substitution of channel 226A for channel 246A at the license site of WMCZ(FM) Millbrook, Alabama. Additionally it will require the substitution of channel 300A for channel 247A at Orrville, Alabama. Presently Marion Radio, Inc. (MRI) has a permit to construct WJAM(FM) at a site which is not fully spaced for the allocation of Channel 300A. However, Miller has included a copy of an

agreement signed by the President of MRI which states that the permittee is willing to have its antennae/tower relocated to a fully spaced site if it is compensated for this move.

The deletion of channel 246A at Millbrook and 247A at Orrville creates a location window for channel 246A at Hayneville. The site is only 6.46 kilometers from the community of Hayneville reference coordinates. The allocation or study coordinates are far enough removed from Danley Field that a full 100 meter HAAT antenna can be used. EMI should be no problem since channel 246A is presently in use on the north side of Montgomery.

The proposed allocation of channel 248A at Pike Road, Alabama is on the second adjacent channel to Miller's counterproposal for Hayneville. However, the separations between the two channels are enough that it should cause no short spacing, if the allocation coordinates of 248A are used. It should also be noted that if applicants seeking 248A used sites to the west of the allocation coordinates there could be conflict. Miller is also submitting a counterproposal in the Pike Road rule making (MM Docket 93-245).

EXHIBITS EXPLAINED

The following exhibits are submitted in support of the Miller counterproposal seeking to add channel 246A to Hayneville as a first local service.

Exhibit E, figure 1 is an allocation study using the licensed coordinates of WMCZ as reference. The study depicts that WMCZ cannot operate as a maximum Class A (6 KW at 100 meters) on its present channel of 246A. Six KW operation would create a short space of 2.6 kilometers to WZLM (FM), Dadeville, Alabama, on channel 247A. A mutual short space agreement is not applicable since WZLM also has other 6 KW short spacings. Therefore, the deletion of channel 246A at Millbrook and the substitution of channel 226A creates a scenario whereby WMCZ can be utilized as a maximum class A without utilizing a directional antenna.

Exhibit E, figure 2 is an allocation study using the license coordinate site of WMCZ as reference on channel 226A. As previously discussed channel 226A can be allocated to WMCZ at its present site and allow for 6KW class A operation.

Exhibit E, figure 3 is a computer generated graph depicting that an allocation window exists for the substitution of channel 226A for channel 246A at the license site of WMCZ. The window area allows for sizeable tower relocation should the WMCZ licensee desire to relocate.

Exhibit E, figure 4 is an allocation study for the substitution of channel 300A at Orrville using the CP coordinates as reference. As shown by this study, the allocation of channel 300A at these coordinates create short spacings.

Exhibit E, figure 5 is an allocation for a fully spaced site for channel 300A at Orrville. These coordinates are not at the present site of WJAM. They require a relocation of a least 5.41 kilometers in order to give adjacent channel separations to WENN FM Birmingham and WVFG FM Uniontown. The permittee of WJAM has agreed to this relocation. This allocation study considers the withdrawal of Miller's interest in channel 300A at Hayneville. The separation between 300A at Orrville and Hayneville would be mutually exclusive.

Exhibit E, figure 6 is a computer generated graph depicting an allocation window for the substitution of channel 300A for channel 247A at Orrville.

Exhibit E, figure 7 is a portion of a USGS State of Alabama, 1:500,000 scale map with the allocation coordinates plotted and the 70 dBu contour drawn in. As depicted in this map, the city grade contour more than adequately provides primary service to the community of Orrville when channel 300A is allocated at the requested coordinates.

Exhibit E, figure 8 is an allocation study for channel 246A at Hayneville. The study assumes the substitution of channel 226A for channel 246A at Millbrook and the substitution of channel 300A for channel 247A at Orrville. The reference coordinates for this study are only 6.46 kilometers north-north east of Hayneville. This area will allow for the construction of an adequate tower to give a full 100 meter antenna HAAT and not interfere with air traffic at Danley Field.

Exhibit E, figure 9 is a computer generated graph depicting that an allocation window exists for the use of channel 246A at Hayneville.

Exhibit E, figure 10 is a portion of a USGS State of Alabama 1:500,000 scale map with the allocation coordinates plotted and the 70 dBu contour drawn in. As depicted in this map, the city grade contour more than adequately provides city grade service to Hayneville when the allocation coordinates are used.

CONCLUSION

Miller has requested that his petition for channel 300A at Hayneville be dismissed due to extreme FAA and EMI problems. He is offering the instant counterproposal as a method of providing a first local service to Hayneville, Alabama in an expedient manner. After the deletion of channels 247A at Orrville and 246A at Millbrook Channel 246A can be allocated to Hayneville in a manner which avoids FAA conflict and yet provides a new local service.

CERTIFICATION

I, Paul Reynolds, hereby certify the following: that I am an independent broadcast consultant; that I hold a Bachelor of Science degree in Communications from the University of Southern Mississippi and have completed work for a Masters Degree in Communications from the University of Alabama; I have been a practicing consultant since 1980, and I am familiar with the Commission's rules and regulations; I have filed numerous petitions and applications in association with Amerimedia, Inc., and my qualifications are known in the industry and at the Commission; I have been retained by R. J. Miller to prepare this Engineering Statement in support of a "Counterproposal, Comments and Request for Order to Show Cause" in MM Docket 93-245.

All information in this engineering statement was prepared by me or under my direct supervision. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Signed 
PAUL REYNOLDS, CONSULTANT

THIS 14th DAY OF NOVEMBER, 1993

415 NORTH COLLEGE STREET
GREENVILLE, ALABAMA 36037
(205) 382-8048

ENGINEERING STATEMENT

In Support of a
COUNTERPROPOSAL
MM DOCKET 93-245, RM-8316

R. J. MILLER, INDIVIDUALLY

ALLOCATION STUDY

[DEPICTING THAT WMCZ CANNOT OPERATE AS A FULLY SPACED CLASS A ON CH 246A]
 (AT PRESENT SITE OR WITHOUT A DIRECTIONAL ANTENNA)

32 25 58 N.				Class A				Search Date
86 20 07 W.				Current rules spacings				11-14-93
			Channel 246 - 97.1 MHz					
Call	Ch#	City	State	Bear'	Dist'	R'qrd	Margin	
WMCZ	246A	Millbrook	AL	0.0	0.00	115.0	-115.00	*
Licensed Site of WMCZ								
WZLM	247A	Dadeville	AL	44.0	69.40	72.0	-2.60	*
Of Concern								
Mutual Short Space Agreement Difficult								
Since WZLM is short to Other Class A Stations								
WJAMFM	247A	Orrville	AL	264.1	77.38	72.0	5.38	*
WDJR	245C	Enterprise	AL	161.5	176.96	165.0	11.96	
WOKK.C	246C1	Meridian	MS	266.9	221.73	200.0	21.73	
WOKK	246C1	Meridian	MS	267.0	221.93	200.0	21.93	
WEZZ	249A	Clanton	AL	324.1	55.16	31.0	24.16	
WMJJ	243C	Birmingham	AL	335.6	123.15	95.0	28.15	
ALOPEN	247A	Homewood	AL	338.1	116.84	72.0	44.84	
AP247	247A	Homewood	AL	336.7	118.75	72.0	46.75	
AP247	247A	Homewood	AL	336.7	118.75	72.0	46.75	

EXHIBIT E
Figure 1

ENGINEERING STATEMENT

In Support of a
COUNTERPROPOSAL
MM DOCKET 93-245, RM-8316

R. J. MILLER, INDIVIDUALLY

ALLOCATION STUDY

[DEPICTING THAT A 6 KW CLASS A CAN BE ALLOCATED TO THE WMCZ LICENSED SITE]

32 25 58 N. 86 20 07 W.			Class A Current rules spacings Channel 226 - 93.1 MHz				Search Date 11-14-93	
Call	Ch#	City	State	Bear'	Dist'	R'grd	Margin	
WTUGFM	225C1	Tuscaloosa	AL	301.2	133.01	133.0	0.01 *	
WVFJFM	227C	Manchester	GA	74.1	166.98	165.0	1.98 *	
AD227	227C1	Evergreen	AL	198.8	138.95	133.0	5.95 *	
WPGG	227C2	Evergreen	AL	207.1	124.39	106.0	18.39	
DE227	227C2	Evergreen	AL	207.8	124.98	106.0	18.98	
WDJC	229C	Birmingham	AL	335.5	123.13	95.0	28.13	
ALOPEN	226C3	Blakely	GA	136.7	175.10	142.0	33.10	

EXHIBIT E
Figure 2

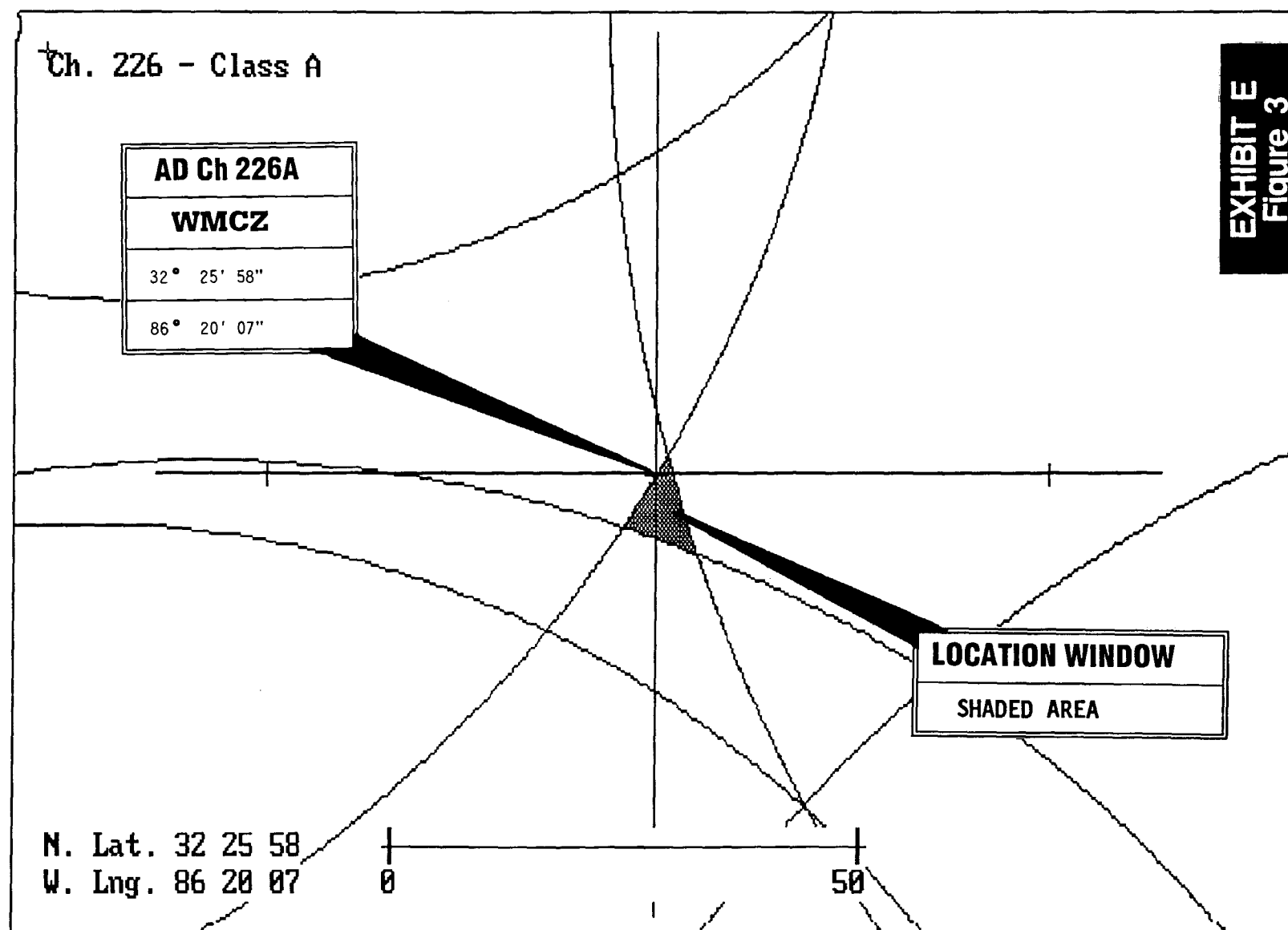


EXHIBIT E
Figure 3

ENGINEERING STATEMENT

In Support of a
COUNTERPROPOSAL
MM DOCKET 93-245, RM-8316

R. J. MILLER, INDIVIDUALLY

ALLOCATION STUDY

[DEPICTING THAT WJAM MUST SEEK A NEW SITE FOR THE ALLOCATION OF CH 300A]

32 21 38 N. 87 09 12 W.			Class A Current rules spacings Channel 300 -107.9 MHz			Search Date 11-14-93	
Call	Ch#	City	State	Bear'	Dist'	R'grd	Margin
Community of Orrville			AL	233.6	11.31	115.0	-103.69 *
Reference Coordinates: 32° 18' 00" 87° 15' 00"							
WJAMFM 247A Orrville			AL	0.0	0.00	10.0	-10.00 *
Of No Concern IF to WJAM Deletion of Ch 247 Proposed in Instant Counterproposal							
WENNFM 299C Birmingham			AL	17.7	159.59	165.0	-5.41 *
Of Concern New Site Proposed in Instant Counterproposal							
WVFG.C 298A Uniontown			AL	271.8	27.12	31.0	-3.88 *
Of Concern New Site Proposed in Instant Counterproposal							
WWGA.C 299A Georgiana			AL	154.5	87.46	72.0	15.46
WPFM.C 300C Panama City			FL	147.3	255.33	226.0	29.33
AD299 299A Butler			AL	254.2	105.98	72.0	33.98

EXHIBIT E
Figure 4

ENGINEERING STATEMENT

In Support of a
COUNTERPROPOSAL
MM DOCKET 93-245, RM-8316

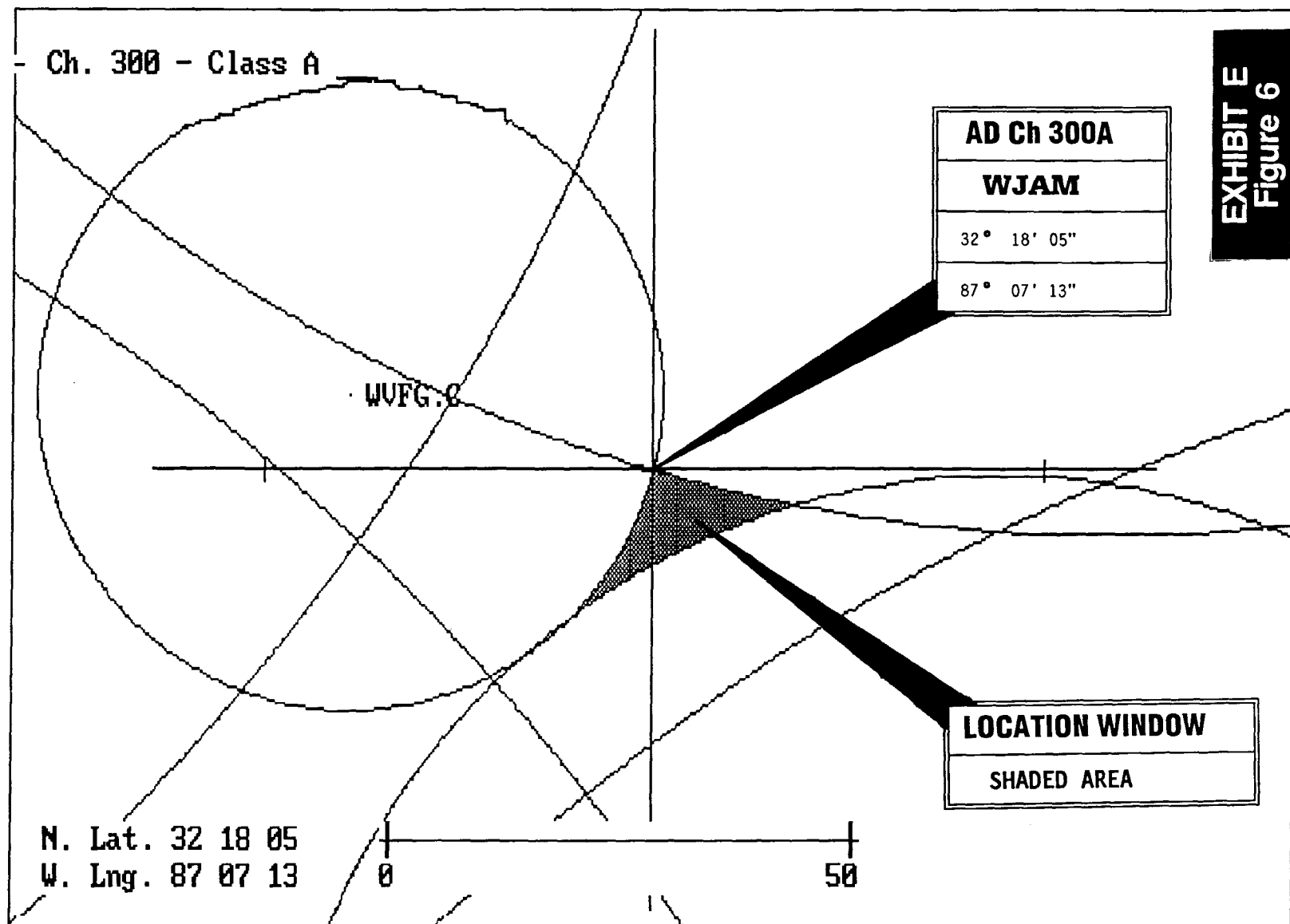
R. J. MILLER, INDIVIDUALLY

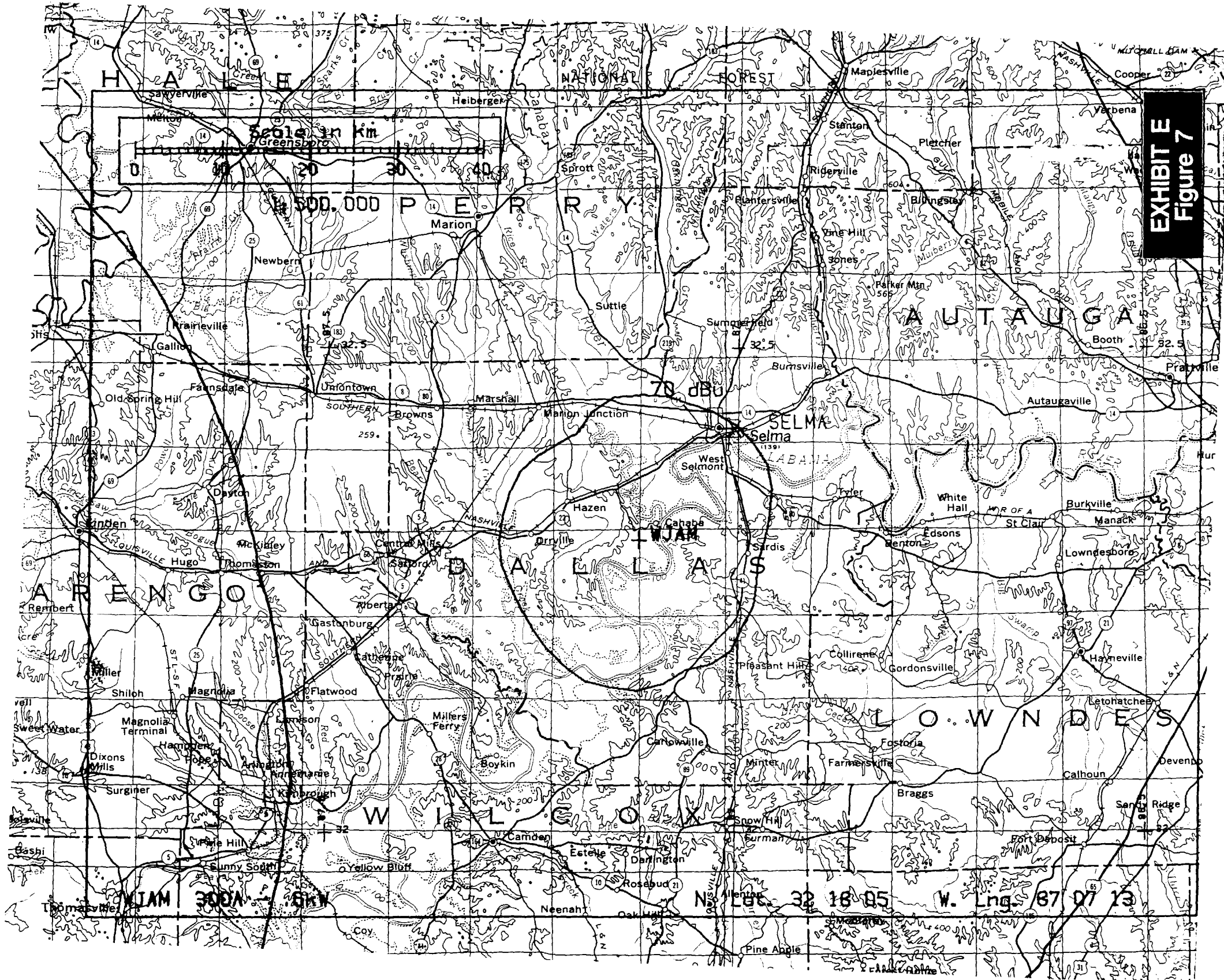
ALLOCATION STUDY

[DEPICTING THAT CHANNEL 300A CAN BE ALLOCATED TO ORRVILLE FOR WJAM]
 (ASSUMING CHANNEL 300A IS NOT ALLOCATED TO HAYNEVILLE)

32 18 05 N. 87 07 13 W.			Class A Current rules spacings Channel 300 -107.9 MHz			Search Date 11-14-93	
Call	Ch#	City	State	Bear'	Dist'	R'qrd	Margin
Community of Orrville			AL	269.3	12.22		*
Reference Coordinates: 32° 18' 00" 87° 15' 00"							
AD300	300A	Hayneville	AL	94.8	65.05	115.0	-49.95 *
Of No Concern Expression of Interest Dropped Changed in Instant Counterproposal							
WJAMFM 247A		Orrville	AL	334.6	7.26	10.0	-2.74 *
Of No Concern IF Mutual Exclusive Channel Deleted in Instant Counterproposal							
WENNFM 299C		Birmingham	AL	16.0	164.98	165.0	-0.02 *
WVFG.C	298A	Uniontown	AL	283.7	31.12	31.0	0.12 *
WWGA.C	299A	Georgiana	AL	154.5	80.19	72.0	8.19 *
WFCA	300C	Ackerman	MS	300.2	247.31	226.0	21.31
WPFM.C	300C	Panama City	FL	147.1	248.13	226.0	22.13
WZKX	300C	Poplarville	MS	226.9	252.19	226.0	26.19
DE300	300C	Poplarville	MS	226.9	252.19	226.0	26.19
AD300	300C	Bay St. Louis	MS	226.9	252.19	226.0	26.19
AD299	299A	Butler	AL	258.0	107.46	72.0	35.46

EXHIBIT E
Figure 5





ENGINEERING STATEMENT

In Support of a
COUNTERPROPOSAL
MM DOCKET 93-245, RM-8316

R. J. MILLER, INDIVIDUALLY

ALLOCATION STUDY
[DEPICTING CHANNEL 246A CAN BE ALLOCATED TO HAYNEVILLE]
(AFTER CHANNEL SUBSTITUTIONS AT MILLBROOK & ORRVILLE)

32 14 11 N.			Class A				Search Date
86 33 18 W.			Current rules spacings				11-14-93
			Channel 246 - 97.1 MHz				
Call	Ch#	City	State	Bear'	Dist'	R'qrd	Margin
Community of Hayneville			AL	204.4	6.46		*
Reference Coordinates							
32° 11' 00"							
86° 35' 00"							
WMCZ 246A	Millbrook		AL	43.5	30.04	115.0	-84.96 *
Of Concern							
Proposed Substitution of Ch 226A							
in Instant Counterproposal							
WJAMFM 247A	Orrville		AL	283.7	58.01	72.0	-13.99 *
Of Concern							
Proposed Substitution of Ch 300A &							
Permittee Agreed Site Change							
in Instant Counterproposal							
WDJR 245C	Enterprise		AL	152.1	165.14	165.0	0.14 *
WOKK.C 246C1	Meridian		MS	272.8	201.19	200.0	1.19 *
WOKK 246C1	Meridian		MS	272.9	201.44	200.0	1.44 *
AD248 248A	Pike Road,		AL	99.9	45.14	31.0	14.14
Proposed in MM Docket 93-244							
AD248 248A	Ramer		AL	110.3	48.70	31.0	17.70
Counterproposal in MM Docket 93-245							
WZLM 247A	Dadeville		AL	43.9	99.44	72.0	27.44
WEZZ 249A	Clanton		AL	350.0	67.48	31.0	36.48
WMJJ 243C	Birmingham		AL	347.2	137.32	95.0	42.32

EXHIBIT E
Figure 8